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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 23869 | 7590 | 10/29/2007 | | |
| HOFFMANN & BARON, LLP 6900 JERICHO TURNPIKE SYOSSET, NY 11791 | | | EXAMINER GRABOWSKI, KYLE ROBERT | |
| | | | ART UNIT 4175 | PAPER NUMBER |
| | | | MAIL DATE 10/29/2007 | DELIVERY MODE PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/507,401

Applicant(s)

HOOGLAND, HENDRICUS
ANTONIUS

Examiner

Kyle R. Grabowski

Art Unit

4175

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09/13/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 10/05/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Oath/Declaration

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be **material to patentability** as defined in **37 CFR 1.56**.

Specification

2. The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 4175

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-6 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Errichiello (US 4,294,558). Errichiello discloses: a file 10 comprising a front cover 16, back cover 14, and spine 12; walls 22, 24, 26, 28, 30, and 32 (Fig. 1), act as closure elements wherein they can couple with their opposite walls (i.e. 30 and 32) along a longitudinal edge and cover the space enclosed by the front cover, back cover, and spine, in a substantially closed-box shape configuration (Fig. 5); a binding device comprising "a plurality of split rings 52 for mounting thereon hole-punched paper sheets" (Col. 2, Lns 31-33) located on the spine (Fig. 1); walls 28, 32, and 26 of the closure element are pivotally connected to the spine 12 by hinge 20; walls 24, 30, and 22 of the closure element are pivotally connected to the spine 12 by hinge 18; walls 30 and 32 comprise a first part, remote from the spine along the longitudinal edges of the front and back cover; wall groups (22, 26) and (24, 28) form two other parts that connect to the upper and lower longitudinal edges of the front and back cover, respectively; the three parts, walls (22, 26), (24, 28), and (30, 32), are pivotally interconnected by spine 12; the front and back covers, the spine, and walls are all integrally molded of a thermoplastic polymer (Abstract).

5. Claims 1, 7, 8, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Thomas (US 4,569,613). Thomas discloses: a file 12, comprising covers 18 and 20, and spine 14; a closure element 10, coupled to the longitudinal ends of covers 18 and

20 (Fig. II), partly covering the space enclosed by the covers and spine, creating a partly open box shape whereby the coupling is clamped by footers 40 and 70 which are biased against support edges 34 and 36 (Fig. III), respectively so that "they may flex and hold the respective devices in place" (Col. 4, Lns 12-13); the flexibility of the footers implies that the variability of distance 110 and 112 (Fig. III) accommodates various binder cover thicknesses.

6. Claims 1, and 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by An (US 5,213,433).

In respect to claims 1, 12 and 13, An discloses: a file consisting of front cover 16, back cover 18, and spine 20 connecting the covers; closure element flaps (36, 38, 40, 48, 50, and 74) are connected longitudinally to the covers (Fig. 1); a first flap 48 is fixable by tab 54 against the file as a bottom side along with similar flaps 74 and 50 which act as closure element partly on top of the file (50) and party on the side (74) which are fixed by another tab (also 54); a second flap 36 is fixed into slit 56 against the open side – the side away from the spine – near the first flap 48, forming a completely closed box shape (Fig. 4);

In respect to claim 14, when only the first flap 48 and second flap 36 are fixed into a closing position, flaps 50 and 74 may stay flat (Fig. 1) allowing the box-shaped file to remain in a partly open configuration.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas (US 4,569,613) in view of Simmons (US 4,682,792). Thomas substantially discloses the claimed subject matter for the reasons stated above, except for the closure elements with coupling means ability to interconnect with other closure elements, allowing separate files to be arranged next to one another. Simmons discloses a similar closure device with a front wall 1 and clamping side walls 2 and 3, with zones 2b and 3b and shoulders 2c and 3c, respectively (Fig. 1) wherein "the respective shoulders of the two side walls facing in opposite directions such that when a plurality of the binders are placed side by side in a row the shoulder of one such binder

Art Unit: 4175

can abut against the shoulder of the next such binder to locate the binders in alignment"

(Abstract, Fig. 4).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the closure device taught in Thomas with interlocking shoulders in view of Simmons to facilitate alignment for multiple binders.

10. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas (US 4,569,613) in view of Reisenthel (DE 90 15 136.4). Thomas substantially discloses the claimed subject matter for the reasons stated above, but does not disclose an opening in the spine for manipulating the file with a finger and a sealing cap for closing off the opening. Riesenthel shows a hole 22 in a spine 20 (Fig. 6) and a sealing cap 50 (Fig. 8) for insertion into the hole. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the file taught in Thomas with a hole in the spine in view of Riesenthel to allow access to the papers when the file is in a closed configuration.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kyle R. Grabowski whose telephone number is (571) 270-3518. The examiner can normally be reached Monday through Thursday and

Application/Control Number: 10/507,401

Page 7

Art Unit: 4175

every other Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrence R. Till can be reached at (571) 272-1280.

KG

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Brian Nasit

[Signature] 10/24/07

Terrence R. Till
Supervisory Patent Examiner